

Memorandum

210.0152

To: Petition Unit (HKL)

Date: March 20, 1981

From: Legal (RHO)

Subject: M--- H--- E--- Incorporated
SR --- XX-XXXXXX

This matter was heard and taken under consideration by the Board in Sacramento on 2/5/81.

Following the hearing the petitioner submitted statements from various mobil home dealers that furniture used in model mobile homes has not historically been taxed. (Copies in file.) Further, the staff received a copy of a 1975 hearing conducted by the --- --- district Principal Auditor on the same issue wherein it was concluded that furniture used in model mobile homes was held for resale and was not taxable. (Copy in file.) Finally, we received the attached memo from Mr. Burkett expressing his opinion that the petition should be granted. For the reasons stated therein, we recommend that the petition be granted.

If this recommendation is accepted by the Board, the following statement is suggested:

Statement of Board Action

The Board determined that the furniture used in model mobile homes was held for sale in the regular course of business and was used exclusively for demonstration and display purposes.

The Board ordered that the petition be granted.

RHO:jw

Cc: Mr. J. D. Dotson
Mr. Don Brady
Oakland - Auditing

State of California

Board of Equalization

Memorandum

To: Mr. R. H. Oschner

Date: March 11, 1981

From: W. E. Burkett

Subject: M--- H--- E--- Incorporated
SR --- XX-XXXXXX

It is my conclusion that we should grant this petition. This is not a situation where the property is only incidentally sold after use. While the furniture is utilized to enhance and thus demonstrate the interior of the mobilehome, it is at the same time held for sale in the regular course of business.

The use tax should not apply where the claimed taxable use of the property is in connection with the actual demonstration or display of the same property for sale in the regular course of business. A use excluded under 6244 should not be subject to the tax because it also serves to demonstrate or enhance another item held for sale. There are many items of property displayed for sale that serve to enhance or demonstrate the capabilities or desired features of another property while it is displayed for sale. A lamp displayed on a fine grain wood table is a classic example. An automotive tire displayed on an auto tire rim is another.

I would distinguish this type of use from a use to demonstrate real property for sale or where the property has been withdrawn from inventory and depreciated as a capital asset.

WEB:ljt